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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके।

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)
PART II—Section 3—Sub section (iii)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और 'अधिकारियाएँ'
Orders and Notifications issued by Central Authorities (other than Administrations of Union
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 14 दिसम्बर, 1987

आदेश

आ०अ० 7:—परिवर्ग बंगाल विधान सभा के साधारण निर्वाचन के लिए मार्च, 1987 में हुए, 167-जगत्कल्पना-पुर सभा निर्वाचन-क्षेत्र से निर्वाचित लड़ने वाले अध्यर्थी श्री निमाई पोरेल, ग्राम मध्य सन्तोषपुर, डाकखाना दक्षिण सन्तोषपुर, जिना हावड़ा, पश्चिम बंगाल को, भारत निर्वाचन आयोग द्वारा लोक प्रतिनिवित्व अधिनियम, 1951 की धारा 10-के अधीन उक्त अधिनियम तथा तदीन वनाए गए नियमों द्वारा अपेक्षित, निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहने के कारण उसके तारीख 9 नवम्बर, 1987 के आदेश सं० 76/प०व०-वि०स०/87 द्वारा निरक्षित कर दिया गया था;

और उस श्री निमाई पोरेल ने एक अध्यावेदन और सभी संघंघ वाउचरों सहित निर्वाचन व्ययों का लेखा दाखिल

किया था और विधि द्वारा अपेक्षित निर्वाचन व्ययों का लेखा दाखिल करने में अपनी असफलता के कारण बताते हुए उन पर अधिरोपित निरहंता को हटाने के लिए अनुरोध किया;

और, भारत निर्वाचन आयोग ने उनके द्वारा दाखिल किए गए अध्यावेदन तथा निर्वाचन व्ययों के लेखे को ध्यान में रख लिया है;

अतः अब, उक्त अधिनियम की धारा 11 द्वारा प्रदत्त शर्मियों का प्रयोग करते हुए भारत निर्वाचन आयोग ने उन पर अधिरोपित निरहंता की अवधि में से पहले ही भोगी जानुकी अवधि घटा दी है और अनवसित अवधि के लिए उनकी निरहंता 14 दिसम्बर, 1987 से हटा दी है।

[सं० प० व०-वि०स०/167/87]

ELECTION COMMISSION OF INDIA

New Delhi, the 14th December, 1987

ORDER

O.N. 7.—Whereas, Shri Nemai Porel of Village Madhya Santoshpur, P.O. South Santoshpur, District Howrah, West Bengal, a contesting candidate for the General Election to the West Bengal Legislative Assembly, 1987 from 167-Jagatballavpur assembly constituency held in March, 1987, was disqualified by the Election Commission of India vide its order No. 76[WB-LA]87 dated the 9th November, 1987, under section 10A of the Representation of the People Act, 1951, for failure to lodge the account of election expenses as required by the said Act and Rules made thereunder;

And whereas, the said Shri Nemai Porel had submitted a representation and account of election expenses alongwith

all the relevant vouchers and requested for the removal of disqualification imposed upon him giving reasons for his failure to lodge the account of election expenses as required by law; and

And whereas, the Election Commission of India has taken into account the said representation and the account of election expenses filed by him;

Now, therefore, in exercise of the powers conferred by section 11 of the said Act, the Election Commission of India has reduced the period of disqualification imposed upon him to the period of disqualification already suffered by him and remove the disqualification for the unexpired period with effect from the 14th December, 1987.

[No. WB-LA[167]87]

नई दिल्ली, 7 जनवरी, 1988

आदेश

आ० अ० 8:—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट विहार विधान सभा के साधारण/उप-निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपदस्ति अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे या अपने निर्वाचन व्ययों का लेखा समय के अन्दर और रीति से दाखिल करने में असफल रहे हैं;

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं किया है या उसके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई प्राप्ति कारण या न्यायोचित नहीं है;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य-क्षेत्र की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्रम सं० निर्वाचन का विवरण	विधान सभा निर्वाचन-क्षेत्र की क्रम सं० और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहित का कारण
1	2	3	4
1. बिहार विधान सभा के लिए साधारण निर्वाचन, 1985	8-बेतिया	श्री विश्वनाथ प्रसाद गैग सं० 2, बाई न० 15, बेतिया प० चम्पारण, बिहार।	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया है।
-वही-	22-भोरे (अ०ज०जा०)	श्री मानप्रताप राम, ग्रा० व पौ० एकड़गा, जिला गोपालगंज, बिहार।	-वही-
3.	-वही-	श्री सुरेन्द्रकुमार राम, ग्रा० तिवारीटोला सिलटिया, डा० खवासपुर, जिला रिवान, बिहार।	-वही-

1	2	3	4	5
4.	बिहार विधान सभा के लिए उप-निर्वाचित, 1984.	210-मनेर	श्री राजेन्द्र राय, प्रा० हेतुपालगंज, पा० चान्दमारी, शास्त्र-गाहूरु, जिला-पटना, बिहार।	निर्वाचन व्यापों का कोई लेखा दाखिल नहीं किया है।

[सं० 76/बिहार-बि०स०/88]

New Delhi, the 7th January, 1988

ORDER

O.N. 8.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the General/Bye-election to the Bihar Legislative Assembly as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses or failed to lodge the account within the time and/or in the manner, as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representation, made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election	S. No. and name of Assembly Constituency	Name and Address of Contesting Candidate	Reasons for Disqualification
1.	General election to Bihar Legislative Assembly, 1985	8-Bettiah	Shri Vishwanath Prasad, Gang No. 2, Ward No. 15, Bettiah, West Champaran, Bihar.	Failed to lodge any account of election expenses.
2.	—do—	22-Bihüre (ST)	Shri Man Pratap Ram, V. & P.O., Lekdanga, Distt. Gopalganj, Bihar.	—do—
3.	—do—	25-Baravli	Shri Surinder Kumar Rai, Vill. Tewari Tola Siktia, P.O. Khuwaspur, Distt. Siwan Bihar.	—do—
4.	Bye-election to Bihar Legislative Assembly, 1984	210-Maner	Shri Rajendra Rai, V. Hanumanthi, P.O. Chandmari, Salipur P. S., Distt. Patna, Bihar.	—do—

[No. 76/BR-LA/88]

प्राविष्ट

आंशक 9:—निर्वाचन आयोग का समाधान हो गया है कि 1985 में भिकिम विधान सभा के लिए इस साधारण निर्वाचन में मिकिम राज्य में 26 टाकड़ींग उन्नतक सभा निर्वाचन-क्षेत्र में निर्वाचन लड़ने वाले अध्यर्थी, श्री लैंजिंग ग्वास्सो, तिवारी ग्राम डिक्चू, पुर्वी गिला, भिकिम,

जीर्ण प्रतिनिधित्व अधिनियम, 1951 और नदीन लमा, गण नियम द्वारा अप्रियता का लिए यातो कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का समाधान हो गया

और उक्त अध्यर्थी से सम्बन्ध मूलगा दिया जाने पर भी उक्त अनुफलता के लिए यातो कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का समाधान हो गया

है कि उसके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित नहीं है;

अतः अब निर्वाचन आयोग उक्त अधिनियम की धारा 10-के अनुसरण में श्री तेजिंग ग्यात्सो को संसद के किसी भी सदन या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् का सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं 76/सिक्किम/88]

ORDER

O.N. 9.—Whereas the Election Commission is satisfied that Shri Tenzing Gyatso, resident of village Dikchu, East

District, Sikkim, a contesting candidate for the General Election to Sikkim Legislative Assembly, 1985, from 26-Tekdong Tintek assembly constituency in the State of Sikkim, has failed to lodge any account of his election expenses as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas the said candidate has neither furnished any reason nor explanation for the said failure even after due notice and the Election Commission is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares said Shri Tenzing Gyatso to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

[No. 76/SKM/88]

आदेश

आ०आ० 10.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट पश्चिम बंगाल विधान सभा के सांघारण निर्वाचन, 1987 के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्दीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दर्शित अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत और अपेक्षित रीति से दाखिल करने में असफल रहा है;

और उक्त अभ्यर्थियों ने सम्पूर्ण सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित नहीं है;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्र०सं० निर्वाचन का विवरण	विधान सभा निर्वाचन-क्षेत्र	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निर्वाचन व्ययों का निर्हता का कारण	
1	2	3	4	5
1. पश्चिम बंगाल विधान सभा का सांघारण निर्वाचन, 1987	95-बसीरहाट	श्री तारनी सिंह डा०घ० और गांव धलटिता, जिला-उत्तर 24-परगना	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।	
2.	वही-	96-हसनाबाद	श्री परमेश्वर मंडल गांव रायपुर, डा०घ० छोटोसेहारा, जिला-उत्तर 24-परगना, (पश्चिम बंगाल)	-वही-
3.	-वही-	97-हरोआ (आ०जा०)	श्री राम कृष्ण सरदार, डा०घ० और गांव दक्षिण, अखरातला, जिला-24-परगना, (प० बंगाल)	-वही-
4.	-वही-	98-सन्देशखाली (आ०जा०)	श्री अभिमन्यु दास, डा०घ० और गांव खुलना, जिला-उत्तर-24-परगना, (प० बंगाल)	-वही-

1	2	3	4	5
5.	पश्चिम बंगाल विधान सभा का साधारण 99-हिंगलगंज निवाचिन, 1987	(अ०जा०)	थी रणजीत गोयेन, डा०घ० और गांव हसनाबाद, जिला-उत्तर-24-परगना, (प० बंगाल)	निवाचिन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।
6.	—वही—	133-टीटागढ़	1. श्री दीनानाथ साह, ४, आर०के० देवपथ, टीटागढ़, जिला-उत्तर- 24-परगना, पश्चिम बंगाल।	—वही—
7.	—वही—	—वही—	2. अशोक अग्रवाल, ए०पी० देवी बाजार, डा०घ० टीटागढ़, उत्तर- 24-परगना, पश्चिम बंगाल।	—वही—
8.	—वही—	238-जयपुर	थी मिहिर कुमार मुखोपाध्याय, गांव और डा०घ० लागदा, जिला-पुरुलिया, प० बंगाल।	—वही—
9.	—वही—	—वही—	थी हजारी प्रसाद राजवार, गांव और डा०घ० दुमदुमी, जिला पुरुलिया, पश्चिम बंगाल।	—वही—
10.	—वही—	239-पुरुलिया	थी तारपदा मुखर्जी, गांव रुद्र, डा० घ०- बंसराया, जिला पुरुलिया, पश्चिम बंगाल।	—वही—
11.	—वही—	—वही—	थी जेमिनी कान्त महतो, गांव लालबाजार, डा० घ० नतुया, जिला- पुरुलिया, पश्चिम बंगाल।	—वही—
12.	—वही—	241-रघुनाथपुर (अ०जा०)	मी काला सोना बाउरी, गांव और डा०घ० सन्तुरी, जिला पुरुलिया, पश्चिम बंगाल।	—वही—
13.	—वही—	243-हुरा	थी बाधम्बर महतो, गांव श्यामालुता, डा० घ० के०पी० रंगादीह, जिला पुरुलिया, पश्चिम बंगाल।	—वही—

[सं० 76/प०बं०-वि० स०-/88]
एस०डी० प्रशाद, अवर. सचिव

ORDER

O.N. 10—Whereas the Election Commission is satisfied that each of the contesting candidates specified in Column (4) of the Table below at the general election to West Bengal Legislative Assembly, 1987 as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses or failed to lodge the account within the time and in the manner, as shown in column (5) of the said Table, required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election	Sl. No. and Name of Assembly Constituency	Name and address of Contesting candidate	Reasons for disqualification
1	2	3	4	5
1.	General Election to West Bengal Legislative Assembly, 1987	95-Basirhat	Shri Tarani Singha P.O. & Vill. Dhaltitha Distt. North 24-Parganas West Bengal.	Failed to lodge any account of election expenses.
2.	—do—	96-Hasnabad	Shri Parameshwar Mondal, Vill. Roypur, P.O. Choto Sehara, Distt. North 24-Pargamas, West Bengal.	—do—
3.	—do—	97-Haroa (SC)	Shri Ram Krishna Sardar, P.O. & Vill. Dakshin, Akhratala, Distt. North 24-Parganas, West Bengal.	—do—
4.	—do—	98-Sandesh Khali (SC)	Shri Abhimanya Das, P.O. & Vill. Khulna, Distt. North 24-Parganas, West Bengal.	—do—
5.	—do—	99-Hingalganj (SC)	Shri Ranjit Gayen P.O. & Vill. Hasnabad, Distt. North 24-Parganas, West Bengal.	—do—
6.	—do—	133-Titagarh	1. Shri Dina Nath Sah, 8 R.K. Deb Path, Titagarh, Nurth 24-Parganas, West Bengal. 2. Shri Ashok Agarwal, A.P. Debi Bazar, P.O. Titagarh, Noith 24-Parganas, West Bengal.	—do—
7.	—do—	—do—		
8.	—do—	238-Joypur	Shri Mihir Kumar, Mukhopadhyay, Vill. & P.O. Lagda, Distt. Purulia, West Bengal.	—do—
9.	—do—	—do—	Shri Hazari Prasad Rajwar, Vill. & P.O. Dumdumi, Distt. Purulia, West Bengal.	—do—

1	2	3	4	5
10.	General Election to West Bengal Legislative Assembly.	239-Purulia 1987	Shri Tarapada Mukherjee, Vill. Radia P.O. Banerjia Distt. Purulia, West Bengal.	Failed to lodge any account of election expenses.
11.	--do--	--Jo--	Shri Jamini Kanta Mahato, Vill. Lalbazar, P.O. Natua, Distt. Purulia, West Bengal.	--do--
12.	--do--	241-Raghunathpur (SC)	Shri Kala Sona Bauri, Vill. & P.O. Saaton, Distt. Purulia, West Bengal.	--do--
13	--do--	243-Hura	Shri Baghambar Mahato, Vill. Shyamaluta, P.O. K.P. Rangadih, Distt. Purulia, West Bengal.	--do--

[No. 76/WB-LA/88]

S.D. PERSHAD, Under Secy.

जीर उन अधिकारी ने अपने मुच्चा दिए जाने पर भी उक्त ग्रामपंचायती के लिए या तो कोई कारण अथवा स्पष्टीय नहीं दिया है या उसके द्वारा दिए गए अध्यावेदन पर यदि कोई हो, तिचार करने के पश्चात् निर्वाचन आयोग के पास समाप्त हो गया है कि उसके पास उक्त ग्रामपंचायती के लिए कोई पर्याप्त कारण या आयोगित्य नहीं है;

अतः यद्यु निर्वाचन आयोग उक्त अधिनियम की धारा 10-के अनुमति में नीचे की गारणी के स्तम्भ (4) में वित्तिकाल निर्वाचन-शोध में हुआ है, स्तम्भ (4) में उसके सामने वित्तिकाल निर्वाचन लकड़न वाली अधिकारी लोक प्रतिनिधित्व अधिकारी 1981 तक तदीन बनाए गए नियमों द्वारा उक्त ग्रामपंचायती के स्तम्भ (5) में यथा उपदर्शित रूप में अपने निर्वाचन अधिकारी का नेवा दाखिल करने में असफल रही है;

सारणी

सं.	निर्वाचन की विशिष्टियां	निर्वाचन क्षेत्र की कम संख्या एवं नाम	निर्वाचन लड़ने वाले अधिकारी का निरहता का कारण नाम व परा	
1	2	3	4	5
1.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985.	84-सार्डीला	श्रीमती सोमबती देवी, बेगमगंज, पूर्वी सण्डीला, जिला हरदोई, (उत्तर प्रदेश)	निर्वाचन अधिकारी का सेषा रीति से दाखिल नहीं किया।

[रा० 76/उ०प्र० -वि० स०/४५(२२)]

आदेश से
दलदन्त शिंह, अवर सचिव

New Delhi, the 7th January, 1988

ORDER

O.N. 11.—Whereas the Election Commission is satisfied that the contesting candidate specified in column (4) of the Table below at the General Election to the Uttar Pradesh Legislative Assembly, 1985 specified in column (2) held from the 84-Sandila Assembly Constituency specified in column (3) against her name has failed to lodge the account of her election expenses as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidate has either not furnished any reason or explanation for the said failure even after due notice of the Election Commission or after considering the representations made by her, if any, is satisfied that she has no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the person specified in column (4) of the Table below to be disqualified for being chosen as, and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

S. No.	Particulars of election	S. No. & Name of Constituency	Name & address of the Contesting Candidate	Reasons for disqualification
1	2	3	4	5
1.	General Election to the U.P. Legislative Assembly, 1985	84-Sandila	Smt. Somvati Devi, Begumganj, Poorvi Sandila, Distt. Hardoi, U.P.	Failed to lodge any account in the manner required by law.

[No. 76/UP-LA/85(22)]

By Order,
BALWANT SINGH, Under Secy.

नई दिल्ली, 8 जनवरी, 1988

VERSUS

आ०अ० 12:—1987 की निर्वाचन अर्जी नं० 3 में बम्बई उच्च न्यायालय औरंगाबाद पांड के तारीख 12 अक्टूबर, 1987 के सुनाए गए आदेश को लोक प्रतिनिधित्व अधिनियम, 1951[(1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग इसके द्वारा प्रकाशित करता है।

[सं० 82/महा०-लो०स०/3/87]

आदेश में,
टी०सी० मिशन, अवर सचिव

New Delhi, the 8th January, 1988

O.N. 12.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission hereby publishes the order of the High Court of Judicature Bombay Bench at Aurangabad dated 12th October, 1987 Election Petition No. 3 of 1987.

[No. 82/MT-HP/3/87]

By Order,

T. C. SINGHAL, Under Secy.

1. Anil Trayambakrao Kokil, Aged 30 years, Occ. Journalist, R/o Sahyognagar, Nanded.	} ... Respondents (Respondents Nos. 1 and 2—Orig. petitioners Nos. 1 and 2, Respondents Nos. 3 and 6—Orig. Respondents Nos. 2 and 5).
2. Baburao Gangaram Gaikwad, Age 38 years, Occ: Business, R/o Shivajinagar, Nanded.	
3. The Returning Officer, Parliamentary Constituency, Nanded.	
6. Prakash Yeshwantrao Ambedkar, Age, 34 years, Occ.: Advocate, R/o Rajgrhi, Hindu Colony, Dadar, Bombay.	

Shri N. P. Chapalgaonkar, Advocate for the Applicant.
S|Shri Shivajirao Schindia and B. H. Gaikwad, Advocates for Respondents 1 and 2.

Shri K. C. Navandar, Advocate for Respondents 3

S|Shri V. G. Sakolkar, V. D. Gunale and S. B. Bakriya, Advocate for—Respondent No. 6.

CORAM.—P. V. NIRGUDKAR, J. October 12, 1987

JUDGEMENT :

This Civil Application is filed in Election Petition raising question of limitation that the Election is barred by the time.

The above Election Petition has been filed by both the petitioners seeking declaration that Lok Sabha election of Respondent No. 1 Ashok Shankarrao Chavan as successful candidate be held void as he is guilty of corrupt practices. In this petition, issues are framed at Exhibit 19 and Issue No. 1 is whether this election petition is barred by limitation.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY BENCH AT AURANGABAD

Civil Application No. 1188 of 1987

IN

Election Petition No. 3 of 1987

Ashok Shankarrao Chavan,
Age 35 years, Occu : Business,
R/o Shivajinagar, Nanded. Applicant (Orig.
Respondent No. 1).

2. The issue arises in this way. Under section 81 of the Representation of the People Act, 1951, the election petition questioning the election has to be presented to the High Court within 45 days from the date of election of the returned candidate that is to say from the result of the election. Here the result of the election of Loksabha from Nanded Constituency has been declared on 23.3.1987. The period of 45 days expired on 7th May 1987. According to the petitioners Summer Vacation for the High Court commenced from 4th May 1987 and the High Court reopened on 8th June, 1987 and as the present petition was filed on 8th June 1987, it is in time.

3. Respondent No. 1 the successful candidate and the contesting defendant has a different version to offer. He contends that as the petition is not filed within 45 days, it is obviously barred by time because Summer Vacation cannot be deducted as the Office of the High Court was open and the election petition could have been filed even in Summer Vacation. In support, High Court Notification dated 8.12.1986, the material part of which is as under, is relied upon.

"During the Summer and October Vacations the Officers on the Original Side will remain open daily from 11.00 a.m. to 4.15 p.m. except on Saturdays, Sundays and closed holidays. But no work except of an urgent character will be received after 1.15 p.m.

The Officers on the Appellate Side will also remain open daily from 11.00 a.m. to 4.15 p.m. except on Saturdays, Sundays and closed holidays during the Summer and October Vacations. The office will, however, remain closed for filing of Judicial matters, except the following :—

- (a) Criminal cases,
- (b) Applications in Civil Cases seeking urgent relief, and
- (c) Matters to which the provisions of section 4 of the Limitation Act, 1963, are not applicable."

4. There is another Notification No. G/5338 dated 20.11.1985 which needs a mention. This Notification authorises the Additional Registrar, Aurangabad Bench to accept election petition. This Notification runs as under :—

The Honourable the Acting Chief Justice and Judges are pleased to make the following amendment in the Rules and Forms of the High Court of Judicature at Bombay (Original Side), 1980 :—

"4. Election Petitions arising from areas constituting Judicial District of Akola, Amravati, Bhandara, Buldana, Chandrapur, Nagpur, Wardha and Yeotmal, shall be presented either in person or by an Advocate duly authorised in that behalf by the party concerned to the Additional Registrar of the Nagpur Bench or to such other Officers as the said Additional Registrar may, by general or special order issued from time to time appoint in this behalf. Election Petitions arising from the areas constituting Judicial Districts of Aurangabad, Beed, Jalna, Latur, Nanded, Osmanabad and Parbhani, shall be presented either in person or by an Advocate duly authorised in that behalf by the party concerned to the Additional Registrar of the Aurangabad Bench or to such other Officer as the said Additional Registrar may by general or special order issued from time to time appoint in this behalf. Election Petitions arising from the rest of the cases of the State of Maharashtra shall be presented to the Prothonotary and Senior Master, High Court, Bombay or to such other Officer as the said Prothonotary and Senior Master, may by special or general orders passed from time to time, appoint in this behalf."

5. The petitioners examined the Additional Registrar but the evidence is of no avail to the petitioners.

6. These are the conflicting stances taken by both the sides and what we have to see is whether the Election is in time.

7. There is direct decision of the Supreme Court in Hukumdev Narain Yadav v. Lalit Narain Mishra, AIR 1974 SC 480, wherein it is held that provisions of Section 4 cannot be attracted in case of Election Petition. In Hukumdev's case it is observed—

"2. It may be mentioned that S. 80-A was added to the Act by the Amendment Act 47 of 1966, whereunder the High Court was given jurisdiction to try election petitions. This jurisdiction has to be exercised ordinarily by a Single Judge of that Court and the Chief Justice could from time to time assign one or more Judges for that purpose. Section 81 prescribed the period of 45 days from the date of the election of a returned candidate within which an election petition calling in question any election on one or more grounds specified in sub-s. (1) of S. 100 and S. 101 has to be presented to the High Court. If the provisions of section 81 are not complied with, S. 86 requires that the High Court shall dismiss the petition. There is no doubt that election petition in this case has been presented beyond the period of 45 days and had necessarily to be dismissed.

3. What we have to consider, however, is that whether having regard to the requirements of R. 6 and 7 of the Rules for the disposal of Election Petitions framed by the Patna High Court, that an election petition should only be filed before a Judge of the High Court sitting in open Court, and it could not be filed on a Saturday when the Judges do not sit and hence the filing of that petition on Monday, March 20, 1972, Sunday being a holiday, is in time. Even if it be held that the filing of the petition was beyond the time prescribed in S. 81, it has further to be considered whether the provisions of S. 5 of the Limitation Act 36 of 1963 are applicable to such petitions and whether the petitioner has shown sufficient cause in the petition which has now been filed before this Court for not filing the petition in time to enable the Court to admit it after prescribed period.

4. Three questions which require determination are—

- (1) Is the Court closed on Saturday, when the Judges do not sit for the purposes either of S. 10 of the General Clauses Act, or S. 4 of the Limitation Act ?
- (2) By virtue of S. 29(2) of the Limitation Act, are the provisions of S. 4 to 24 of the said Act applicable to election petitions ?
- (3) If they are, and S. 5 of the Limitation Act is applicable, do the facts of the case warrant condonation of delay ?

It is held that the petition could have been presented to the Registrar on Saturday. That no cause has been brought out whether S. 29(2) has been made applicable to an Election Petition. Section 81 of the Act, by virtue of which either Section 4, 5 or 12 of the Limitation Act has been attracted, and so, in the result, election petition has been held to be barred by limitation and appeal was ultimately dismissed by Their Lordships of the Supreme Court. Here, there is no delay condonation application but what we have to see is whether Section 4 of the Limitation Act is applicable. Here, as the Office of the Additional Registrar was open during summer vacation, he was competent to accept Election Petition.

8. It was first hinted on behalf of the Petitioners that the Additional Registrar was not competent to accept Election Petitions and it was only the Judge of the High Court who is empowered to do so. However, when Respondent No. 1 has brought on record the Notification that the Election Petition can be presented before the Additional Registrar, Aurangabad, then it was urged that the Additional Re-

gistrar is competent to perform in Summer Vacation only administrative work and not judicial work and as there is no Court sitting during vacation, the Additional Registrar is not supposed to do any legal work or legal duties in Summer Vacation. So, it is further argued that the Election Petition filed on 8th June 1987 cannot be said to be barred by time, in view of S. 10 of the General Clauses Act. In support of this argument, strong reliance has been placed on the decision of the Supreme Court in *Hari Shankar Tripathi v. Shiv Hari and others* (1976) 1 SCC 897. It was an appeal against the decision of Single Judge of Allahabad High Court who dismissed the Election Petition on the ground that it is barred by limitation under Sec. 86(1) read with 81(1) of The Representation of the People, Act, 1951. Their Lordships of the Supreme Court followed the previous decision of the Supreme Court in *Hukumdev Narain Yadav v. Lalit Narain Mishra* that S. 4 and 5 of the Limitation Act do not apply to Election Petition. Taking into consideration the rules framed by Allahabad High Court. Their Lordships concluded as under—

- (a) By virtue of the notification of the High Court approving the High Court calendar the legal position was that the summer vacation was deemed to be a closed holiday. If, therefore, the period of limitation under Section 81 of the Representation of the People Act expired on June 14, 1974 which being a closed holiday right upto July 7, 1974, then Section 10 of the General Clauses Act would apply in terms and the appellant would be fully justified in filing the petition on July 8, 1974 when the Court reopened after the summer vacation.
- (b) Distinction must be made between the opening of the Court and opening of the office. While the court may be closed, the office may remain open for conducting ministerial business or administrative work. If the Registrar was empowered to receive election petitions he would be exercising judicial power which cannot be done while the court was observing a closed holiday. The relevant rules of the High Court required the placing of the petition immediately before the Chief Justice for reference to the Bench concerned and the assignment of a judge. This could not be done when the court was observing a closed holiday. The presentation before the Registrar as required by Rule 3 of the aforesaid rules must be a legal presentation and not a physical presentation.

Rule 10 of Chapter V of the Allahabad High Court Rules nowhere empowers the Registrar to entertain or to receive an election petition. Rule 3 of Chapter I again applies only to such cases where the period of limitation is prescribed by the High Court Rules.

Also the term "public holiday" referred to in Section 2 (1)(h) of the Representation of the People Act has nothing to do with any administrative function exercised by the High Court but refers only to such contingencies as are mentioned in the conduct of the actual elections under the provisions of the Representation of the People Act.

Hence as the period of limitation expired during the summer vacation which was a closed holiday the appellant was fully justified in filing the election petition on the reopening day of the High Court."

It is thus clear that Summer Vacation is treated as closed holidays so far as Allahabad High Court is concerned and Registrar is not empowered to receive Election Petition. These are two different aspect from our case. Third important aspect is that rule 4 lays down that after the office report etc. is complete the petition shall be laid forthwith before the Chief Justice for reference to the Bench concerned, and the Supreme Court has held that the Registrar has to take legal steps, namely, the placing of the petition immediately before the Chief Justice for reference to the Bench concerned and the assignment of a judge. This again is a different and important aspect of Allahabad High Court

rule (Rule No. 4). In our case, there is no such duty cast upon the Additional Registrar because here is the Bench of the High Court and there is no Chief Justice available and there is no rule that the Additional Registrar should put the matter before the Chief Justice or the Senior Judge immediately. In my view, therefore, decision of the Supreme Court in *Hari Shankar Tripathi's* case is not applicable to the facts of the present case.

9. On this topic the decision of Kerala High Court in *Dr. K. K. Mohamad Koya v. P. M. Sayeed*, AIR 1977 Kerala 160 can also be cited. In the above case, it is observed as under—

"It has been the practice of the Courts in Kerala State inclusive of the High Court to treat the summer vacation as a period during which the courts remain closed except with regard to the functioning of a vacation judge nominated by the Chief Justice in accordance with Section 8 of the High Court Act. It cannot be said that there was no closing of the High Court as such during the summer vacation.

In exercise of the powers conferred by sub-section (2) of Section 80A of the Representation of the People Act 1951 the Chief Justice of the High Court of Kerala nominated one judge of the High Court to try election petitions. The Judge so nominated did not function at any time.....

Since the period of limitation of 45 days expired during the currency of the vacation the petitioner had time till the reopening date to file the petition. Thus the election petition filed on the reopening date cannot be said to be barred by limitation."

What is to be borne in mind is that the rules of Kerala High Court appear to be that summer vacation should be treated as closed holidays. In other words, this case is akin to *Hari Shankar Tripathi's* case (1976) 1 SCC 897. As summer vacation has been treated as closed holidays, period is naturally extended as the judge nominated by the Chief Justice did not work in the vacation. In our State in summer vacation the Courts are not closed but in view of the above two Notifications only the judicial work is closed and for some purpose always the Vacation Judges are appointed. As pointed out above, the Additional Registrar is empowered to accept Election Petition.

10. There is decision of Mysore High Court in *P. Naranappa v. Shanker Alva and Others*, AIR 1973 Mys. 78. In that case, the period of limitation for filing Election Petition expired when the High Court was closed for vacation. It has been held that as Section 5 is not applicable, petition filed beyond the limitation prescribed in S. 81 of the Act would be liable to be dismissed in accordance with the provisions of S. 85 of the Act. The decision of our High Court in *Ashok Shankar Gholap v. Krishnarao H. Deshmukh and another*, AIR 1980 Bom 224 can also be cited. In that case Election Petition was filed on the last day of limitation but the copies were supplied on the next day and objections were also removed on that day. It was held that there was non-compliance of Section 81(3) and the election petition was liable to be dismissed under section 86.

11. Before reaching final conclusion, it is necessary to refer to some more decisions to which a reference has been made by Shri Sakolkar. The first decision is *Harinder Singh v. S. Karnail Singh and Others*, AIR 1957 SC 271. This decision lays down that the object of Section 10 (of General Clauses Act) is to enable a person to do what he could have done on a holiday on the next working day and the act should be considered to have been done within the period of limitation. There cannot be any dispute so far as his proposition is concerned and it is well settled. The condition precedent is that the period should be prescribed and the period should expire on a holiday. Here, we have to remember that summer vacation cannot be treated as holidays.

12. The second decision which Shri Sakolkar wanted me to accept is the principle enunciated in *Vidyacharan Shukla v. Khubchand Baghel and others*, AIR 1964 SC 1099. Inviting my attention to paragraph 22, Shri Sakolkar pointed out the following passage of Dixit, C.J. in AIR 1961 Madras Pra. 75—

“A special law may provide a period of limitation and schedule I may omit to do so. Nonetheless the special law would be different from the Limitation Act. Section 29(2) of the Limitation Act is not very happily worded. It must be construed as to avoid absurdity. The expression “a period of limitation different from the period prescribed therefor by the first schedule” occurring in S. 29(2) cannot be construed as meaning that schedule I must also positively prescribe the period of limitation. Such a construction would not be in accordance with the intention of the legislature and would lead to an absurdity.”

13. In view of decision in (1976) 1 SCC 897 it can easily be said that Section 4 and 5 cannot be applicable to Election Petition in view of Section 29(2) of the limitation Act. Their Lordships were considering particular provisions of appeal and not provisions of the Representation of the People Act in this case.

14. The last case to which it is necessary to advert to is decision in *D. P. Mishra v. Kamal Narayan Sharma and another*, AIR 1970 SC 1477. Here, Shri Sakolkar has invited my attention to the following passage—

“The right to appeal against the order of a Tribunal is conferred by S. 116A of the Representation of the

People Act, 1951. The Act provides a special period of limitation different from the period of limitation prescribed by Art. 116 of the Limitation Act, 1963, for an appeal to the High Court under the Code of Civil Procedure from any decree or order. But the expression “under the Code of Civil Procedure” in Art. 116 of the Limitation Act means an appeal governed by the Code of Civil Procedure, and by virtue of S. 116A (2) the procedure with respect to an appeal from an order to the Tribunal. By virtue of Section 29(2) of the Limitation Act, Ss. 4 and 12 thereof apply and if the appeal is filed on the date on which the Court re-opens after the recess it will be regarded as within time if the period of limitation, after taking into account the time requisite for obtaining a certified copy, had expired during the course of the recess.”

It is difficult to understand how the passage is of any help to Shri Sakolkar or to the petitioners to save limitation. In the above case, Their Lordships interpreted S. 116A of the Limitation Act and it is held that by virtue of S. 29(2) of the Limitation Act, Ss. 4 and 12 apply. However, the latter decision of the Supreme Court clearly state that Section 4 and 5 do not apply to The Representation of the People Act, 1951.

15. Thus, on close and careful analysis of the legal position obtainable and touched above, I am of the firm opinion that the present Election Petition is barred by time and it is liable to be dismissed. Civil Application is allowed and in effect the Election Petition is dismissed. I, however, order that in the circumstances of the case, parties should be left to bear their respective costs.

